



STATE OF DELAWARE

PUBLIC SERVICE COMMISSION

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MEMORANDUM

TO: The Chairman and Members of the Commission

FROM: Joshua Bowman, Public Utility Analyst

A handwritten signature in cursive script, appearing to read "JAB".

DATE: May 22, 2017

SUBJECT: IN THE MATTER OF THE JOINT APPLICATION OF BROADVIEW NETWORK HOLDINGS, INC., AND BROADVIEW NETWORKS, INC., BROADVIEW NP ACQUISITION CORP., ATX LICENSING, INC., A.R.C. NETWORKS, INC., EUREKA TELECOM, INC., AND WINDSTREAM HOLDINGS, INC. FOR APPROVAL TO TRANSFER INDIRECT CONTROL OF THE BROADVIEW LICENSEES.

(FILED APRIL 28, 2017) – PSC DOCKET NO. 17-0281

Application

On April 28, 2017, Pursuant to 26 Del. C. § 215 and the rules of the Public Service Commission of the State of Delaware ("PSC" or "Commission"), Broadview Networks, Inc. ("Broadview Networks"); Broadview NP Acquisition Corp. ("Broadview NP"); ATX Licensing, Inc. ("ATX"); A.R.C. Networks, Inc. ("A.R.C."); and Eureka Telecom, Inc. ("Eureka") (collectively, the "Broadview Licensees"); Broadview Networks Holdings, Inc. ("Broadview Holdings"); and Windstream Holdings, Inc. ("Windstream") (together with Broadview Holdings and Broadview Licensees, the "Applicants"), request approval to complete a transaction whereby Windstream will acquire indirect control of the Broadview Licensees ("Proposed Transaction"). This application was filed in connection with an Agreement and Plan of Merger entered into between Windstream and Broadview Holding on April 13, 2017.

Applicants

Windstream Holdings, Inc.

Windstream is a Delaware corporation headquartered at 4001 Rodney Parham Road, Little Rock, Arkansas 72212. Windstream is a leading provider of advanced network communications and technology solutions for consumers, businesses, enterprise organizations and wholesale customers. Windstream functions as a holding company and does not provide any

telecommunications services or hold any telecommunications licenses in its own right. Windstream, through its wholly owned subsidiary Windstream Services, owns and operates a number of licensed telecommunications providers in all 50 states and the District of Columbia. In Delaware, Windstream's regulated subsidiaries include PAETEC Communications, LLC, McLeodUSA Telecommunications Services, LLC, Windstream Communications, LLC, Windstream KDL, LLC, Cavalier Telephone Mid-Atlantic, LLC, Intellifiber Networks, LLC, Talk America, LLC, USLEC of Pennsylvania, LLC, EarthLink Business, LLC, DeltaCom LLC, Business Telecom, LLC, and CTC Communications Corp.

Windstream's combined operations currently have approximately 2.1 million access lines and approximately \$5.39 billion in annual revenues as of the year end FY2016.

Broadview Holdings, Inc.

Broadview Holdings is a privately held Delaware corporation with principal offices located at 800 Westchester Avenue, Suite N501, Rye Brook, NY 10573. Broadview Holdings does not provide any telecommunications services in its own right. It owns and operates a number of telecommunications providers in the District of Columbia and all states, except Alaska. Broadview Holdings, together with its subsidiaries (collectively "Broadview"), is a network-based electronically integrated communications provider which serves small and medium sized businesses.

Broadview Licensees are each authorized to provide one or more telecommunications services within the state of Delaware.

Proposed Transaction

Pursuant to the Agreement entered into by and between Windstream and Broadview Holdings, and indirect subsidiary of Windstream was created ("MergerSub") for the purpose of effectuating the transaction. MergerSub will be merged with and into Broadview Holdings, with Broadview Holdings remaining as the surviving entity. As a result of the Proposed Transaction, Windstream will be the new ultimate parent company of Broadview holdings and the Broadview Licensees. This change in ultimate control does not involve a transfer of operating authority, assets or customers, and the Proposed Transaction is expected to be virtually seamless to end user customers. The current customers of the Broadview Licensees will remain customers of those entities following the Proposed Transaction. Accordingly, customers will continue to enjoy the same rates, terms and conditions of service as they do prior to closing. Immediately following consummation of the Proposed Transaction, the Broadview Licensees will continue to offer the same services, rates, terms and conditions pursuant to their existing authorizations, and the only material change resulting from the Proposed Transaction will be that these certificated

entities ultimately will be indirectly owned by Windstream, and subsequently may change their names to reflect the "Windstream" brand in their names.

Public Interest

The Proposed Transaction will serve the public interest. The telecommunications industry has been and continues to be subject to rapid technological advances, evolving consumer preferences and dynamic changes. Combining Broadview with Windstream will enable the Broadview Licensees to continue to offer and expand a broad range of high quality services, including hosted cloud voice and a variety of other cloud services, to small and medium sized business customers. Windstream will help ensure and improve the continuation of the Broadview Licensees ability to deploy and maintain innovative and advanced telecommunications offerings, benefiting Delaware consumers and serving the public interest, convenience and necessity.

The efficiencies and economies of scale resulting from the Proposed Transaction will improve the combined enterprise's economic position and, thus, its ability to continue to attract financing to invest in and offer new and innovative services. The Proposed Transaction will also provide each of the Applicants access to the others' advanced network capabilities, technical and financial strengths, and complementary services, which together are expected to strengthen Applicants' ability to provide quality competitive services in the State of Delaware. The combined enterprise will have greater economies of scale and scope than the Broadview Holdings subsidiaries would have had operating independently. Windstream is technically, managerially and financially well-qualified to become the new ultimate owner of the Broadview Licensees.

The Proposed Transaction generally will be transparent to customers and, at the time of the Proposed Transaction, customers will not experience any immediate changes in services, or rates, terms and conditions of service. The Broadview Licensees' existing tariffs will not be affected by the Proposed Transaction, and will remain in effect subject to change in the ordinary course of business. Any future changes in rates, terms and conditions of service will be made in accordance with applicable Commission requirements and any future consolidation of the operations into or with other Windstream processes, such that customers would see a change in their service, would be undertaken pursuant to applicable rules and notice requirements.

This Proposed Transaction will enhance competition because it will strengthen the Broadview and Windstream certificated entities. Applicants emphasize that the Proposed Transaction will not have a negative impact on current Windstream customers or customers of the Broadview Licensees.

Staff Recommendation

Applications seeking approval of transfer of control by large multi-state competitive intrastate telecommunications providers technically come under the provisions of 26 *Del. C.* §215 because the companies are deemed to be public utilities. The Applicants have represented

that the Proposed Transaction is in accordance with the law, for a proper purpose, and consistent with the public interest. The Commission has previously allowed such applications to become effective by statutory approval without Commission action. The result seems appropriate under the circumstances. Staff, therefore, recommends that the Commission not act on this application. Under 26 Del. C. §215(d), the effect will be that the application is deemed to be approved by the Commission. Staff will also acquire verification from the Applicants that the Proposed Transaction has been completed.